

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rolando Vasquez	Team: Squad #5	CCRB Case #: 201804688	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 06/10/2018 2:37 PM	Location of Incident: 104th Precinct stationhouse	Precinct: 104	18 Mo. SOL 12/10/2019	EO SOL 12/10/2019	
Date/Time CV Reported Tue, 06/12/2018 4:40 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Tue, 06/12/2018 4:40 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. CPT John Mastronardi	00000	924147	104 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Andrew Incantalupo	19516	962493	104 PCT
2. POM Nicholas Gianesses	30789	926875	104 PCT
3. SGT Daniel Mendez	04855	937090	104 PCT

Officer(s)	Allegation	Investigator Recommendation
A.CPT John Mastronardi	Force: Captain John Mastronardi used physical force against § 87(2)(b)	
B.CPT John Mastronardi	Force: Captain John Mastronardi used physical force against § 87(2)(b)	
C.CPT John Mastronardi	Discourtesy: Captain John Mastronardi spoke discourteously to § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint on June 12, 2018 in person at the CCRB.

On June 10, 2018, at approximately 2:37 p.m., § 87(2)(b) was in police custody at the 104th Precinct stationhouse. § 87(2)(b) was in a holding cell at the stationhouse. Cpt. John Mastronardi from the 104th Precinct slapped § 87(2)(b) (**Allegation A – Force**, § 87(2)(g)). Cpt. Mastronardi pushed § 87(2)(b) into a wall (**Allegation B – Force**, § 87(2)(g)). Cpt. Mastronardi told § 87(2)(b) “You’re going to fucking clean this ship up right now,” in reference to § 87(2)(b) urinating in the cell (**Allegation C – Discourtesy**, § 87(2)(g)).

There is no video footage of this incident.

This incident occurred while § 87(2)(b) was already in police custody for an arrest.

Findings and Recommendations

Allegation A- Force: Captain John Mastronardi used physical force against § 87(2)(b)

Allegation B – Force: Captain John Mastronardi used physical force against § 87(2)(b)

Allegation C – Discourtesy: Captain John Mastronardi spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that he was arrested in the morning following an incident in which he was intoxicated in public (BR01). § 87(2)(b) was taken to § 87(2)(b) and then to the 104th Precinct stationhouse after he became sober. At the stationhouse, § 87(2)(b) asked officers for information about his arrest but was ignored. § 87(2)(b) urinated on the floor to get the officers’ attention. Cpt. Mastronardi and two officers entered the cell. Cpt. Mastronardi told § 87(2)(b) to turn around and to get against the wall. § 87(2)(b) complied with these instructions. The officers handcuffed and leg shackled § 87(2)(b). Cpt. Mastronardi turned § 87(2)(b) around and sat him on the bench in the cell. Cpt. Mastronardi slapped § 87(2)(b) across his right cheek, and then again on the left side of his head, making impact on his left ear. Cpt. Mastronardi grabbed § 87(2)(b) by both shoulders and pushed him against the wall. § 87(2)(b) sustained bruising and scratches on his left shoulder from hitting the wall. § 87(2)(b) had a scratch on his left ear and he was unsure if it was attributable to being slapped or hitting the wall. Cpt. Mastronardi said, “You’re gonna fucking clean this shit up right now.” § 87(2)(b) was taken to § 87(2)(b). § 87(2)(b) sought additional treatment for the aforementioned injuries two days later at § 87(2)(b).

§ 87(2)(b) submitted photos which were taken on June 11, 2018 which depicted scratches on his left shoulder, scabbing on the back of his left ear, and a scab his left cheek (BR02-04). The scab on his cheek is visible on his arrest photo (BR05). PO Incantalupo reported he processed § 87(2)(b) and took the arrest photo before the incident between § 87(2)(b) and Cpt. Mastronardi (BR11).

The medical records from § 87(2)(b) and § 87(2)(b) both reflect that § 87(2)(b) complained about force being used against him by an officer (BR06-07). The records from

§ 87(2)(b) note that § 87(2)(b) pointed to redness on his face and ear which he reported were the result of being hit in the head. The records from § 87(2)(b) reflect that § 87(2)(b) reported he was taken to the floor in the cell. At § 87(2)(b), § 87(2)(b) reported pain and abrasions on his left shoulder, left ear lobe, and lower back. The physical examination sections from both evaluations did not note any injury.

§ 87(2)(b) reported that there were no other prisoners or civilians present in the cell area which was corroborated by the prisoner holding pen roster from the 104th Precinct (BR08).

The command log entry for § 87(2)(b) does not note any physical injuries (BR11).

Video footage from the stationhouse was requested and the IAB-CCRB Liaison unit responded that the 104th Precinct CCTV cameras do not have recording capabilities.

ESU officers were requested to the stationhouse during this incident. The ESU report notes that § 87(2)(b) was already handcuffed and leg shackled upon their arrival. § 87(2)(b) was placed on a stretcher and removed without incident (BR09).

§ 87(2)(g)
Cpt. Mastronardi added that in addition to the urination, he observed § 87(2)(b) climbing the cell bars which posed a safety concern. Cpt. Mastronardi and two other officers, he did not remember who, entered the cell. The other officers handcuffed and leg shackled § 87(2)(b) without incident. Cpt. Mastronardi turned § 87(2)(b) around, told him to calm down and to sit down. § 87(2)(b) sat down. Cpt. Mastronardi left the cell. Cpt. Mastronardi denied that he slapped § 87(2)(b) and that he pushed him into the wall. Cpt. Mastronardi denied using any physical force against § 87(2)(b). Cpt. Mastronardi did not speak with § 87(2)(b) about the urine in the cell. Cpt. Mastronardi may have said something to the other officers to the effect of, "How are we going to clean this up? There's piss all over my cell." Cpt. Mastronardi denied using any profanity toward § 87(2)(b).

PO Andrew Incantalupo and PO Nicholas Gianesses were identified as possible witnesses based on an entry in the command log which noted they leg shackled § 87(2)(b) (BR11). PO Gianesses testified he had no recollection of the incident and did not know how he came to be named in the command log (BR12). PO Incantalupo testified that six or seven officers, he did not know who, entered the cells and were involved in handcuffing and leg shackling § 87(2)(b) (BR13). PO Incantalupo could not see how this was achieved because there were so many people in the cell obstructing his vision. PO Incantalupo did not see any force used against § 87(2)(b) and did not hear any profanity being used toward him. PO Incantalupo took § 87(2)(b)'s arrest photo before he was restrained.

Sgt. Daniel Mendez, the desk officer, testified that he watched the encounter between § 87(2)(b) and officers from a security monitor at the desk (BR14). Cpt. Mastronardi and six or seven officers, he did not remember who, entered the cell area and verbally instructed § 87(2)(b) to get down from the cell gate. § 87(2)(b) complied. Officers did not enter the cell and did not make any physical contact with § 87(2)(b). ESU was called and ESU officers handcuffed and leg shackled § 87(2)(b). Sgt. Mendez could not tell if there was any physical struggle or if force

was used against § 87(2)(b) because there were many other officers standing in the cell area obstructing his view through the camera. ESU officers escorted § 87(2)(b) out of the stationhouse to an ambulance. Sgt. Mendez denied that the alleged actions occurred.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (BR15).
- Cpt. Mastronardi has been a member of the service for 19 years and has no substantiated allegations. Cpt. Mastronardi has prior physical force allegations in cases 200606282 and 200913410 which were exonerated by the Board and in cases 20070812 and 201006202 which were unsubstantiated by the Board. Cpt. Mastronardi has one prior discourtesy allegation in case 200917195 which was closed by the Board as complainant uncooperative.

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation because § 87(2)(b) stated he was filing a lawsuit about this incident.
- A notice of claim request was submitted to the NYC Comptroller's Office and will be added to the case file upon its receipt.
- § 87(2)(b)

Squad No.: 5

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____

Signature

Print Title & Name

Date

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